

#### IV. AMENDMENTS TO THE DRAWINGS

--- Replacement and annotated mark-up drawing sheets for amended figures showing the amended figures, if any, are attached at the Appendix hereto. Each figure is in compliance with 37 C.F.R. § 1.84. An explanation of the changes, if any, is set forth below in this "Amendments to the Drawings" section. Replacement drawing sheets are identified in the top margin as "Replacement Sheet." Any replacement drawing sheet including amended figures includes all of the figures appearing on the immediate prior version of the sheet. Any annotated drawing sheets, if the same are required by the Examiner, are identified in the top margin as "Annotated Marked-Up Drawings." Any deleted figure is noted by an instruction to delete the figure. Any corresponding amendment to the specification necessary to be made because of an amendment to the drawings in this section is made in the corresponding "Amendments to Specification" section.

- THE DRAWINGS OF THE PATENT IS HEREBY AMENDED AS SET FORTH BELOW:

- *No amendments to the Drawings.*

## V. REMARKS/ARGUMENTS

- STATUS OF THE CLAIMS

Claims 1 – 20 are pending in this application. Claims 1 – 18 have been withdrawn from consideration pursuant to the restriction requirement discussed below. Claims 19 and 20 are amended herein. Support for such amendments is found in the specification at paragraphs [00082] – [00084] among other places.

- OBJECTIONS

- Examiner's Stance

The Examiner has made no objections.

- Applicants' Response

No response is needed by Applicants.

- REJECTIONS

- CLAIM REJECTIONS UNDER 35 U.S.C. §102

- Examiner's Stance

The Examiner has rejected amended claims 19 and 20 under 35 U.S.C. §102(a) and 102(e) as being anticipated by U.S. Patent No. 6,477,124 to Carson. The Examiner asserts that the Carson reference teaches each and every element of unamended claims 19 and 20.

In comments, the Examiner asserts that Carson discloses monitoring a transfer rate of read data from the media device to the computing device, resulting from the reading of data stored on a digital medium at a physical location of the medium. Examiner asserts that Carson monitors the change in velocity of the read back system, and that the data read transfer rate is directly related to the rotational velocity of the information medium. Because the Examiner asserts rotational velocity during a read back is directly related to the read transfer rate, the Examiner maintains Carson discloses monitoring a transfer rate of read data

from the media device to the computing device. The Examiner also asserts that Carson discloses determining at the computing device from the monitored transfer rate, the presence of an anomaly region on the digital medium corresponding to the physical location of the data on the digital medium by identifying a modification in the transfer rate of the read data from the media device to the computing device. Examiner states that Carson, at column 9, lines 40-67, compares the actual data rate with the expected data rate characteristics and detecting a velocity disruption zone.

Taken together, the Examiner asserts that Carson discloses determining at the computing device, from the monitored transfer rate, the presence of an anomaly region on the digital medium corresponding to the physical location of the data on the digital medium by identifying a modification in the transfer rate at such anomaly region from the other regions surrounding such anomaly regions. Because of these assertions, the Examiner maintains the rejection.

The Examiner further asserts in the rejection of claims 19 and 20 (at paragraphs 10-12, pages 3-4 of the Office Action) that Carson teaches authenticating a digital medium comprising: monitoring a transfer rate of read data from the media device to a computing device resulting from the reading of data stored on a digital medium at a physical location of the medium, (*i.e.*, data transferred at a first rate and changing the data rate when detecting a second data rate); determining, at the computing device, from the monitored transfer rate, the presence of an anomaly region on the digital medium corresponding to the physical location of the data on the digital medium by identifying a modification in the transfer rate at such anomaly region from other regions surrounding such anomaly region on the digital medium; and authenticating the digital medium based on a characteristic of the anomaly region. Further, based on the Sasaki reference (U.S. No. 6,958,960), the Examiner asserts the read data rate is directly related to the rotation velocity of the information medium.

- Applicants' Response

Applicants note once more their interference request dated August 21, 2003 that presents claims 19 and 20 in parallel, which was filed against (in part) unamended claims 1 and 56 of U.S. Patent Application Serial No. 10/062,400. Applicants note the Examiner's acknowledgement for such a request at paragraph 4, page 2, of the Office Action.

Applicants respectfully traverse the rejection of amended claims 19 – 20 under 35 U.S.C. §102(a) and (e) asserting in part that the Carson, as a single reference, fails to disclose all limitations of the instant invention as in the amended claims.

Applicants point the Examiner to the Carson disclosure at column 2, lines 40-48, wherein “data rate” is defined. By this teaching, “data rate” has the following meaning: “data rate” is the frequency at which the first data of the data placement zones pass the read back head, and/or the “data rate” is the frequency at which the second data of the velocity displacement zones pass the read back head. Thus, “data rate” has a composite meaning: there are two, constant data rates by the definition of Carson, corresponding to either a data displacement zone or a velocity displacement zone. It is clear, as in Carson, Fig. 2, that the data are in the format of pits and lands.

Carson teaches the holding of a constant “data rate” during read back of the data symbols in both the data placement zones and the velocity disruption zones. To determine whether an unauthorized duplication of the disc has occurred, the changes in the rotational velocity of the optical medium during read back are monitored as it establishes a frequency lock on the data. Because the two data rates differ, between data placement zone and velocity placement zone, the rotational velocity of disc must be changed to effect a frequency lock.

In amended claims 19 and 20 of the instant invention, authentication of the digital medium is accomplished by monitoring a “transfer rate” of read-data from the output of the media reader to the computing device, *rather than a “data rate” between the disc and the read head that effects a change in rotational velocity to maintain a frequency lock, as disclosed in Carson*. Thus the inventions differ fundamentally. The instant invention monitors directly the transfer rate of data to a computer or data processing device, and detects an anomaly, therein.

Independent claims 19 and 20 are therefore believed to be in condition for allowance, and such allowance is respectfully requested.

Applicants note that the Examiner’s rejections are based on anticipation. As the Federal Circuit has “repeatedly stated, anticipation requires that each limitation of a claim must be found in a single reference” *Teleflex, Inc. v. Ficosa North American Corp.*, 299 F.3d 1313, 63 U.S.P.Q.2d 1374 (Fed. Cir. 2002). The absence from a cited reference of any element of a claim of a patent negates anticipation of the claim by the reference. *Kloster*

*Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986), *on* rehearing, 231 U.S.P.Q. 160 (Fed. Cir. 986), *cert. denied*, 479 U.S. 1034 (1987). Applicants assert that the material added by amendment to the present claims aids in clarifying the difference between the transfer rate monitoring of the present claims and the prior art of reference. Therefore, claims 19 and 20 cannot be said to be anticipated by the reference under 35 U.S.C. §102 (a) or (e).

CONCLUSION TO REMARKS

Applicants assert that this response is fully responsive to the Examiner's Office Action dated January 8, 2006. Applicants respectfully seek early allowance of the pending claims.

Respectfully Submitted,



~~John S. Winterle~~ Reg. # 57,276  
Agent for Applicants  
Kelley Drye & Warren LLP  
400 Atlantic Street 13th Floor  
Stamford, CT 06901

**VI. APPENDIX**

N/A